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8
9 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

10
11 HEATHER R. FUKUNAGA,

CASE NO.: 2:15-cv-02213-GMN-PAL

12 Plaintiff,

13 vs.

**STIPULATED CONFIDENTIALITY
AGREEMENT AND PROTECTIVE
ORDER**

14 STATE FARM BANK, F.S.B, AND EQUIFAX
15 INFORMATION SERVICES, LLC,

16 Defendants.
17

18 It appearing to the Court that Plaintiff, HEATHER R. FUKUNAGA ("Plaintiff") and
19 Defendant STATE FARM BANK, F.S.B ("State Farm"), are in agreement that State Farm
20 possesses proprietary policies and procedures that include confidential information that
21 may be subject to discovery in the proceedings in this matter but which should not be
22 made available to the public generally, this Court hereby orders that:

23 1. This Confidentiality Agreement and Protective Order ("Order") shall govern
24 certain discovery and document production among the parties, as well as discovery and
25 document production from third parties, in the above-referenced action.

26 2. For purposes of this Order, the term "Confidential Information" shall refer to:
27 (1) information which any party or non-party believes in good faith to be a trade secret or
28 confidential research, development, commercial, or other proprietary business

1 information within the meaning of FRCP 26(c)(1)(G); and (2) documents and/or testimony
 2 that may reveal confidential, proprietary, personal or commercially sensitive information.
 3 Such Confidential Information may be contained in any written, printed, recorded, or
 4 graphic matter of any kind, and shall retain its confidential designation regardless of the
 5 medium on which it is produced, reproduced, or stored. Such Confidential Information
 6 may also be elicited at deposition or through written discovery.

7 3. Whenever any party or non-party desires to designate information
 8 contained in a document as Confidential Information, the designating party shall mark
 9 each page of the document with the word "CONFIDENTIAL" and identify such
 10 Confidential Information at the time of production. Confidential Information may be used
 11 in the course of depositions in accordance with this Order.

12 4. Transcripts or exhibits from any deposition or hearing shall be temporarily
 13 designated as "Confidential" and be treated as subject to the terms of this Order. Within
 14 forty-five (45) days of receipt of such transcripts and exhibits, Counsel will designate the
 15 pages of the transcripts or exhibits which shall remain designated as "Confidential" and
 16 will advise all other parties. If no designation is made within forty-five (45) days, the
 17 entire transcript and all exhibits will be deemed not confidential.

18 5. All documents produced or information disclosed and any other records
 19 designated as "confidential" by State Farm shall be revealed only to:

- 20 a) Plaintiff;
- 21 b) Plaintiff's counsel of record in this case;
- 22 c) Defendant;
- 23 d) Defendant's counsel of record in this case;
- 24 e) Paralegals and secretarial employees under counsel's direct supervision;
- 25 f) Outside photocopying, translating, document management, and exhibit
- 26 preparation services engaged by a party for purposes of this litigation;
- 27 g) Persons employed by counsel to act as consultants or experts in this action;

1 h) Any other person State Farm agrees in writing may be shown such
2 documents; and

3 i) The Court and court personnel, stenographic reporters, and videographers
4 at depositions taken in this action, and any jury empanelled in this action,
5 subject to the protections of Paragraphs 3, 4, and 9 of this Order;

6 6. The information considered as “confidential” and disclosed only in accord
7 with the terms of Paragraph 5 shall include, without limitation, any claims manual, training
8 materials, and any other information or documentation supplied by State Farm and
9 designated as “Confidential.”

10 7. Documents deemed confidential by State Farm shall be used only for the
11 purposes of prosecuting or defending this action. Under no circumstances shall
12 information or materials covered by this Order be disclosed to or discussed with anyone
13 other than the individuals designated in Paragraph 5.

14 8. Counsel will ensure that those who receive “Confidential” information are
15 aware of the Confidentiality Agreement and Protective Order.

16 9. Prior to filing any motion wherein information designated as “Confidential” is
17 attached, Plaintiff shall comply with LR 10-5(b) and *Kamakana v. City and County of*
18 *Honolulu*, 447 F.3d 1172 (9th Cir. 2006), or provide Counsel for Defendant reasonable
19 time, but in any event not fewer than 5 judicial days, to file a motion pursuant to LR 10-
20 5(b) and *Kamakana* to show particularized good cause or particularized compelling
21 reasons to file those documents under seal.

22 LR 10-5(b) provides:

23 Unless otherwise permitted by statute, rule or prior Court
24 order, papers filed with the Court under seal shall be
25 accompanied by a motion for leave to file those documents
26 under seal, and shall be filed in accordance with the Court's
27 electronic filing procedures. If papers are filed under seal
28 pursuant to prior Court order, the papers shall bear the
following notation on the first page, directly under the case
number: “FILED UNDER SEAL PURSUANT TO COURT
ORDER DATED _____.” All papers filed under seal will
remain sealed until such time as the Court may deny the

1 motion to seal or enter an order to unseal them, or the
2 documents are unsealed pursuant to Local Rule.

3 Pursuant to *Kamakana* and LR 10-5(b), any documents designated as
4 “Confidential” and attached to a non-dispositive motion must be accompanied by a motion
5 showing a particularized good cause for leave to file those documents under seal. And,
6 any documents designated as “Confidential” and attached to a dispositive motion must be
7 accompanied by a motion showing a particularized compelling reason for leave to file
8 those documents under seal.

9 10. This Order is subject to revocation and modification by Order of the Court
10 upon written stipulation of the parties, or upon motion and reasonable notice, including
11 opportunity for hearing and presentation of evidence.

12 11. Any party objecting to the designation of any information as Confidential
13 Information shall clearly state the basis for the objection in a letter to counsel for the party
14 making the designation. If the parties are unable to resolve the objection, the objecting
15 party may move the Court to do so. Until an objection to the designation of information
16 has been resolved by agreement of counsel or by order of the Court, the information shall
17 be assumed to be properly designated, and shall be subject to the terms of this Protective
18 Order.

19 12. This Confidentiality Agreement and Protective Order shall survive the
20 termination of this case and counsel shall take no action to violate this Agreement.
21 However, this clause does not require counsel to take actions contrary to the Rules of
22 Professional Conduct, which impose an obligation upon counsel to safeguard client
23 property for a reasonable period of time.

24 13. In any action or proceeding to enforce this Order, or pursuant to paragraph
25 12, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and
26 costs, without limiting any other relief that may be available, provided the Court
27 determines there was a willful and malicious violation of the Confidentiality Agreement
28 and Protective Order.

1 14. This Order shall remain in effect after the conclusion of this case and the
2 Court shall retain jurisdiction to enforce its terms and to prevent or punish violations of it.

3 15. This Order may be executed in counterparts, each of which shall constitute
4 one and the same agreement.

5 DATED this 12th day of February, 2016. DATED this 12th day of February, 2016.

6 HAINES & KRIEGER, LLC

LEWIS BRISBOIS BISGAARD & SMITH LLP

7
8 By /s/ David H. Krieger

By /s/ Jason G. Revzin

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Attorneys for Plaintiff

Attorneys for Defendant State Farm Bank

13
14
15 IT IS SO ORDERED:

16
17 
UNITED STATES MAGISTRATE JUDGE

18
19 DATED: February 22, 2016

EXHIBIT A

**ACKNOWLEDGMENT OF RECEIPT AND AGREEMENT TO
COMPLY WITH STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE
ORDER**

The undersigned hereby acknowledges that he/she has been provided with a copy of the parties' **STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER** in the lawsuit captioned *Fukunaga, Heather v. State Farm Bank, et al.*, (United States District Court Case No. 2:15-cv-02213-GMN-PAL). The undersigned agrees to be bound by the terms of the referenced *Stipulated Confidentiality Agreement And Protective Order* in the same manner as Plaintiff, Defendant and their attorneys.

DATED this ____ day of _____, 2016.

By: _____

Litigation Participant - Signature

Name (Printed)

Street Address

City State Zip

Occupation or Business